



Montana Fish, Wildlife & Parks

Region 2
3201 Spurgin Road
Missoula, MT 59804
March 8, 2018

Dear Interested Citizens:

Thank you for your thoughtful reviews and comments on a proposal for Montana Fish, Wildlife & Parks (FWP) to exchange approximately 460 acres of land currently within its Spotted Dog Wildlife Management Area (located NE of Deer Lodge), for approximately 438 adjoining acres held by Cross Canyon Ranch, in Powell County.

Enclosed is a decision document in which FWP explains its rationale for recommending that the Fish & Wildlife Commission and the State Board of Land Commissioners approve this transaction as proposed. Upon completion of the public involvement process and by including this Decision Notice, FWP accepts the draft environmental assessment as final. The decision document also summarizes public comments on the proposed acquisition and explains how FWP considered and incorporated these comments in formulating a recommendation.

FWP will request approval for the exchange of the subject lands at the Fish & Wildlife Commission meeting scheduled for April 19, 2018, in Livingston. FWP will also request approval from the State Board of Land Commissioners, tentatively at its regularly scheduled meeting on May 21, 2018 in Helena. These meetings are open to the public, as are other regularly scheduled Commission and Land Board meetings.

Please feel free to contact me at 406-542-5500 with any questions you may have. Thank you for your interest and participation.

Sincerely,

A handwritten signature in black ink, appearing to read 'Randy Arnold', written in a cursive style.

Randy Arnold
Regional Supervisor

DECISION NOTICE
Proposed Spotted Dog Wildlife Management Area
Land Exchange with Cross Canyon Ranch
March 9, 2018

Proposal

Montana Fish, Wildlife & Parks (FWP) proposed to enter into a land exchange between FWP and Cross Canyon Ranch (CCR), a privately held property. FWP proposed to exchange approximately 460 acres of land currently within its Spotted Dog Wildlife Management Area (SDWMA, located NE of Deer Lodge), for approximately 438 acres held by CCR. The exchange would consolidate each entity's holdings and facilitate management of both the ranch and the WMA. Of special importance to FWP is the opportunity to create passage and enhance public access between the eastern and western portions of the WMA (between the headwaters of O'Neill Creek to Spotted Dog Creek), which currently is hindered by checkerboard boundaries. All exchange parcels are located in T9N, R8W, in Powell County. While the number of acres is not equal, the overall value of the lands being exchanged is comparable.

If the exchange is approved, the new parcels would be managed as part of SDWMA. The primary management purposes of SDWMA would continue to be for wildlife habitat enhancement and public access and recreation, including hunting. At present, public non-motorized travel and passage between the headwaters of O'Neill Creek and Spotted Dog Creek on SDWMA is very difficult due to checkerboard (intermixed private and public land) boundaries. The proposed exchange of land would enable users of the SDWMA to cross via the southern portions of sections 21 and 22. Another benefit to the proposed action is that of reducing the cost of building and maintaining fences around the WMA. By straightening out boundary lines and eliminating two inholdings, FWP will have to build 5.75 fewer miles of fence, at a savings of \$86,250 (using most recent estimates of fencing costs at \$15,000/mile). Fence maintenance costs would also be thereby reduced. Additionally, the acquisition of these inholdings and straightening the boundary lines would reduce trespass issues, both by members of the public and neighboring livestock, and generally facilitate management of both the SDWMA and the CCR.

The FWP land to be transferred to CCR would be managed as part of the larger private ranch, which could include livestock grazing, hay production and recreation. CCR would be able to use that land for whatever purposes are allowed by Powell County and local planning regulations. Before being acquired by FWP in 2010, the parcels considered for exchange were primarily used for agricultural purposes, and already have some two-track roads, old fences, and other signs of development. In the seven years that those parcels were under FWP ownership, those parcels were likely used for upland game bird and big game hunting, and other recreation. While public hunting opportunities would be lost on the parcels traded into private ownership, the parcels FWP would receive in exchange would offer comparable recreational opportunities, in addition to providing improved public passage within and across the WMA.

All parcels considered for exchange are classified as dry grazing land, which is valued at approximately \$600/acre in this area. At this valuation, the parcels FWP would be exchanging to CCR would be worth \$275,736; and the worth of the parcels FWP would be receiving is \$263,004, a difference of \$12,732. As the savings in fencing from the proposed exchange is estimated to be \$86,250, FWP would realize an overall financial gain of \$73,518 from the proposed action, in addition to the other benefits.

FWP is in the process of updating (2018) its management plan for SDWMA and the Draft plan is available from FWP upon request.

Public Review Process

FWP is required by the Montana Environmental Policy Act (MEPA) to assess potential impacts of its proposed actions to the human and physical environments, evaluate those impacts through an interdisciplinary approach, including public input, and make a decision based on this information. FWP released a draft environmental assessment (EA; “Proposed Spotted Dog Wildlife Management Area Land Exchange with Cross Canyon Ranch”) for public review of this proposal on January 16, 2018 and accepted public comment until February 14, 2018.

FWP scoped the public for issues prior to preparing the EA, with a formal, advertised scoping process during September 7, 2016 to October 6, 2016. Issues raised during the scoping process were incorporated in further negotiations between FWP and CCR (prior to arriving at a final negotiated land exchange proposal) and were reflected in the draft EA that was provided for public review and comment.

Legal notices for the proposed land exchange and its Draft EA availability were published twice each in the following newspapers (dates): *Anaconda Leader* (January 17 & 24), *Independent Record* (Helena; January 17 & 23), *Missoulian* (January 16 & 23), *Montana Standard* (Butte, January 16 & 23), and *Silver State Post* (Deer Lodge, January 17 & 24).

FWP mailed 64 copies of the EA, and emailed approximately 120 notifications of the EA’s availability, to adjacent landowners and interested individuals, groups and non-FWP agencies. The EA was available for public review and comment on FWP’s web site (<http://fwp.mt.gov/> “Public Notices”) beginning January 16 through February 14, 2018.

A public hearing to explain the project, answer questions and take public comment was held in Deer Lodge on February 7 (7:00 p.m.) at the Deer Lodge Community Center.

Summary of Public Comment

FWP received 9 comments (Appendix A):

- 10 comments were from individuals (one of these comments represented 2 people);
- None of these comments were from organizations or agencies.

Commenters were from the following Montana towns and locations: 2 from Helena; 2 from Garrison; one each from Anaconda, Emigrant, Townsend and Plains; and one did not indicate a town.

Nine members of the public attended the public hearing, of whom 6 provided oral testimony (Appendix B). The hearing provided a worthwhile and constructive forum for discussion during the question-and-answer (Q&A) portion of the meeting. (Attendees were reminded that comments they made during the Q&A portion were not counted in the official tally, and that there would be opportunity to make official comments during the public testimony portion of the hearing.)

For the official tally of oral testimony and written or emailed comments, a total of 10 commenters supported the land exchange, 3 commenters opposed the land exchange, and 2 commenters did not indicate support or opposition.

Response to Public Comment

Below is a summary of representative *public questions, comments, and suggestions* received during the Draft EA review and comment period, along with FWP responses.

Comment A: Only thing I can see and understand with this study you've done, is it looks like you should be able to get a little bit more private property, for the amount of money we've spent on that Spotted Dog already.

FWP Response: Certainly, FWP represented an interest to CCR in acquiring more land in the exchange, as did CCR to FWP. As with most transactions, the two parties settled on a proposal that favored both, and that also represented the most that either party was willing to trade away. In its consideration of the outcome, FWP was satisfied to achieve the connection of public land and access across the east and west halves of the SDWMA, as well as the significant short- and long-term savings in fence construction and maintenance due to straightened property boundaries. Also, as we heard in public comment, the reduction in fence construction and maintenance expenses will hopefully leave more funding available to address weed management on SDWMA.

Comment B: If this is approved, when will it take effect?

FWP Response: FWP intends to present this decision to the Montana Fish and Wildlife Commission and to the Montana State Board of Land Commissioners for their review and approval in April, so the transaction could conceivably be completed after those decisions in late May 2018.

Comment C: We strongly disagree that there would be no firewood or tree cutting allowed on the WMA.

FWP Response: Habitat management practices such as firewood cutting or forest management are addressed in the revised management plan for SDWMA overall, of which the exchanged acres would be added or removed, as the case may be. The CCR lands proposed for FWP to acquire do not offer practical opportunities for the public to cut firewood, given the relatively small amount of timber on those lands and their distance from open roads. As for the SDWMA overall, FWP emphasizes designed and prescribed forest management for the enhancement of wildlife habitat, including the recruitment and retention of cover and snags, rather than the removal of forested habitat by firewood cutters whose objectives and results would conflict in many cases.

Comment D: There has been talk that Powell County is pushing for a road (motorized use road) something about an old easement that has not been used for a long time across the area that 2.1 Alternative A would affect. This alone would change the dynamics of the wildlife management, movement and safer areas for elk and deer from human pressure that are now public would change to private, if access [access] is made easy. This added pressure whether a road or trail is opened thru proposed area will push wildlife off of the SDWMA and on to CCR and other areas that have no management plan for wildlife.

FWP Response: The Old Mullan Road across SDWMA is a county road that has been closed and locked by private landowners for many years. It is our understanding that Powell County intends to open it. The proposed land exchange will not affect the feasibility of Powell County accomplishing this. The historic route will still cross a mix of FWP and private land ownership between Deer Lodge and Avon and the same issues remain to be addressed among the parties, regardless of whether this proposed land exchange occurs or not.

Comment E: I used to take my ATV up on Spotted dog and hunt and retrieve my animals when it was the Rock Creek Cattle Company. Now that it was all sold and exchanged for other property known as Spotted Dog, we can no longer go up there to retrieve animals on a ATV. I am 67 years old and do not ride a horse, so it is on foot only for me. Now you are exchanging more property which blocks off access to where we bring our downed elk through, which will block off that access for me.

FWP Response: Two residents with land neighboring SDWMA shared this concern. It is true that there is one travel plan for motorized access on SDWMA that pertains to everyone, and the advantages of being able to drive an ATV through other cattle gates onto SDWMA are lost. As you are experiencing, personal privileges come and go with changes in land ownership, and FWP strives to provide motorized access that balances the public's interests more broadly. Overall, FWP's acquisition of the SDWMA has greatly enhanced public access and prevented the potential loss of access and wildlife habitat that could have occurred, for instance, if a land developer had purchased the land from Rock Creek Cattle Company when that land was marketed for sale in 2009-2010.

Correction to the Draft EA


FWP notes the following correction for section **1.2 legal Description and Location of Properties** in the Draft EA (page 3, final line): "Township 8N" should be "T9N."

Recommendation on FWP's Land Exchange between Spotted Dog WMA and CCR

This proposal for FWP to exchange properties with Cross Canyon Ranch within and adjoining the Spotted Dog WMA received public support during the public review period. Supporters emphasized the benefits of squaring up property boundaries and improving public access. We believe that we have addressed and alleviated public concerns to the best of our ability. Therefore, I am pleased to recommend that FWP complete this transaction and manage the acquired lands as part of the Spotted Dog WMA.

With this recommendation, I'd like to thank the Cross Canyon Ranch for their patience and endurance throughout what has become a years' long process of discussion and public involvement. The persistence of both parties and their willingness to continue working and reworking our negotiations speaks well for the values that FWP and CCR see for their respective operations. I would also recognize that we've seen a shift among some members in the public who originally raised concerns, and who now support the land exchange in its current form and with their current understanding.

Everyone has an interest in the effective management and maintenance of Spotted Dog WMA. With this in mind, I am especially pleased to recommend this land exchange for the funding and effort that will be saved, now and into the future, as a result of boundary fencing efficiencies. As others have brought to our attention, the dollars and time saved can now be used on other aspects of management and maintenance on Spotted Dog WMA.



Randy Arnold
Region 2 Supervisor
Montana Fish, Wildlife & Parks

March 8, 2018

Date

Appendix A. Comments on the proposed land exchange between Spotted Dog WMA and a private landowner, received by FWP during the Draft EA comment period of January 16 through February 14, 2018. (Comments received via E = email, M = mail, Ph = phone.)

Com- men- ter #	Via	Para- graph	Comment
1	E		Thanks for the info. The trade looks good to me – I trust FWP judgment in this matter. After the hearing on February 7 th , if this is approved, when will it take affect?
2	E		I'm all for the land exchange proposed for Spotted Dog WMA. I see it as a net benefit to get lands consolidated.
3	M	1	I am writing concerning the proposed exchange of land between the Cross Canyon Ranch and Montana FWP on the Spotted Dog Wildlife Management Area.
		2	I have hunted, fished, hiked and camped on the Spotted Dog WMA in the past so I am familiar with the area in question. I have read the Draft Environmental Assessment and understand the planned exchange.
		3	I believe that this land exchange is a win-win deal for everyone involved and strongly encourage Montana FWP to pursue Alternative A and to complete the land exchange with Cross Canyon Ranch. I am especially in favor of creating a state owned link between the east and west portions of the Spotted Dog WMA which does not exist at present.
		4	Thank you for the opportunity to make my views known on this important issue.
4	Ph	1	This is regarding the Spotted Dog WMA land trade with the private landowner.
		2	Only thing I can see and understand with this study you've done, is it looks like you should be able to get a little bit more private property, for the amount of money we've spent on that Spotted Dog already.
		3	Otherwise, this is a real good deal. I'd like to get it all one end or the other of the WMA.
5	Ph	1	[Person was unsure if they & spouse were responding to the proposed SDWMA Draft Management Plan or to the proposed SDWMA-CCR land exchange. They were not on the distribution list for the management plan, but were on the land exchange distribution list; hence, we are attributing these comments to the land exchange's Draft EA.]
		2	Fire management is important wherever there are trees. We strongly disagree that there would be no firewood or tree cutting allowed on the WMA.
		3	Clearcuts have been used by US Forest Service a long time, and they give the firefighter a better chance to safely fight fires. But environmentalists have interfered with [timber management] on forests.
		4	There's nothing wrong with a little bit of clearcutting or firewood removal before fires come to an area. Firewood cutting should at least be allowed for beetle-killed trees, for personal use or commercial us, whatever is wisest.
6	E		I support Alternative A, the Proposed Action for FWP to enter into a land exchange with CCR. It should help all parties and certainly make access better for the public.

7	E		As a sportsman that has spent the last 7 years on the SDWMA, it is my recommendation to go with 2.2 Alternative B on page 14. This is why, There has be talk that Powell County is pushing for a road (motorized use road) something about an old easement that has not been used for a long time across the area that 2.1 Alternative A would effect. This alone would change the dynamics of the wildlife management, movement and safer areas for elk and deer from human pressure that are now public would change to private, if assess is made easy. This added pressure whether a road or trail is opened thru proposed area will push wildlife off of the SDWMA and on to CCR and other areas that have no management plan for wildlife. At this time it is difficult to access these areas but this makes the recreation (hunting, wildlife viewing, hiking ... so on) a much better experienc . Sure CCR does not want to entertain other options because they see the opportunity to gain some of Montana's best hunting and biggest wildlife herds for free, and turn it into big dollar hunts. I have asked CCR in the past for access for a youth cow elk hunt, it would be a good management tool for the herd. Their response to me was that there plan was to harvest 5 or 6 Bull elk a season... not much of a plan!... not a good steward for Montana FWP to give up our public land to manage.
8	E		I do not agree with the exchange. I bought property on the old Dana Ranch 25 years ago to fish and hunt. I used to take my atv up on Spotted dog and hunt an retrieve my animals when it was the Rock Creek Cattle Co. Now that it was all sold and exchanged for other property known as Spotted Dog we can no longer go up there to retrieve animals on a atv. I am 67 years old and do not ride a horse so it is on foot only for me. Now your are exchanging more property which blocks off access to where we bring our down elk through which will block off that access for me. So I do not want to see the exchange of properties.
9	M	1	As a citizen of Montana, I am against the trade of this area of Spotted Dog WMA, with the CCR owners. If the trade was such a "good deal," why didn't the previous owner of Spotted Dog trade with CCR owners? I am also an adjacent landowner to Spotted Dog WMA, section 7, with a gate opening on Dave's Gulch. Giving up 340 acres adjacent to Beacon Hill and section 16 (school section) prevents hunters, recreationists, horse riders, and hikers from accessing the Spotted Dog WMA. The elk hang out on the 440 acres before they bed down on the Beacon Knob. Many hunters enjoy this area and it will be closed to hunters forever, via the CCR proposed exchange of 438 acres to FWP for 357 acres in T9N, R8W in Powell County.
		2	The McGraws want that area for guided hunting and outfitting purposes: "pure and simple"! They don't want the public in there! Consider trading the 1/2 section in Section 22 for their 280 acres in section 17. That will also open up Section 16 more for the public. This is a valuable timbered section, with one (1) mile border with Section 16.
		3	As a member of the FW&P "Private Lands, Public Wildlife" Council, I know Governor Bullock wants to work on access issues for the public and opening up more land: not closing off more land! Again, I am against this trade. It is not in the people of Montana's best interest.
		4	Section 17 is an entry point for many adjacent landowners who hunt Section 16. That trade will cause many hunters to walk additional miles to be able to hunt the Spotted Dog WMA. This trade is not in any Montana residents' best interest, which is the reason the land was purchased by Montana FWP.

Appendix B. Public Hearing

Spotted Dog WMA and Cross Canyon Ranch: Proposed Land Exchange, Draft EA

Public hearing; February 7, 2018 (7 p.m.)
Deer Lodge Community Center

Present from FWP were: Mike Thompson, Darlene Edge, Julie Golla
9 members of the public signed in.

Public comments:

1. Chris Marchion, Anaconda Sportsmen's Club. The Club supports this. Been beating this around for 2 years. Appreciate the landowners and FWP's diligence on this. It's good. We now have access to the both halves. We wanted access to the state section and we're satisfied.
2. Shawn Curtis, Cross Canyon Ranch manager. Agrees it's time to move forward.
3. Keith Edge. It just makes sense.
4. Karen Laitala. I support it and it makes sense from a weed management standpoint and will leave more money available for weed management instead of fencing difficult boundaries.
5. Don Despain. I'm just here for information. (Doesn't oppose it.)
6. Gary Oldhaus, president, Anaconda Sportsmen's Club. We're always for the benefit of the hunter, and this will lessen the operating expenses of both entities.